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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,503	02/06/2002	Anthony M. Uzzo	03419-P0001B	3329
24126	7590	04/07/2006	EXAMINER	
ST. ONGE STEWARD JOHNSTON & REENS, LLC			MCALLISTER, STEVEN B	
986 BEDFORD STREET			ART UNIT	
STAMFORD, CT 06905-5619			PAPER NUMBER	
			3627	

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/072,503	Applicant(s) UZZO ET AL.	
	Examiner Steven B. McAllister	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 21-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 21-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10, and 21-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Salvo et al (6,341,271) in view of Mowery et al (5,983,198).

Salvo shows a computer 114 accessible by a plurality of vendors; a measurer 108 for measuring the storage level at a customer storage location; a data processor associated with the measurer permitting recording of the level; a communicator associated with the measurer permitting communications with the computer, comprising a wireless transceiver (see e.g., col. 5, lines 15-20); an access interface comprising a web interface (e.g., col. 7, lines 55-60); at least one communications network permitting vendor-computer communication; a database accessible by the computer; a plurality of software modules comprising a management software module for querying the database since the system analyzes information in the database in order to determine historical trends and to determine when to re-order; a scheduling software module for optimizing deliveries based on inventory level and price; an authorization module for

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securing the system since it is password protected (e.g., col. 7, lines 60-65); and a delivery analysis software module since the software system analyzes how best to make the delivery including route optimization (col. 7, lines 15-23). It is noted that the system is inherently capable of use in measuring, analyzing, and delivering any kind of bulk item, including fuel. It is also noted that an administrative software module for enrolling customer locations and administering the system is inherently disclosed since the system of Salvo shows a customer location enrolled in the system and the system administration task must be handled.

Salvo does not show a route optimization module which optimizes the schedule of deliveries to customers based on storage levels at the customer locations. Mowery shows this element (see e.g., claim 3). It would have been obvious to one of ordinary skill in the art to modify the method of Salvo by providing for delivery route optimization based on the storage levels in order to avoid the inventory levels decreasing below an acceptable minimum.

Alternatively Salvo shows all elements except a route optimization module optimizing the schedule based on storage levels at the customer locations (as above), that the system deals with fuel and fuel dealers, and that the system has an administrative software module.

As to the route optimization module, Mowery shows this element and it would have been obvious to modify the apparatus of Salvo as taught by Mowery for the reasons discussed above.

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Regarding the environment in which the system is used, and the administrative module, the examiner takes official notice that it is notoriously old and well known in the art to provide a system for tracking fuel levels and deliveries, and to provide administrative software modules. It would have been obvious to one of ordinary skill in the art to modify the apparatus of Salvo by using it to deal with fuel and to provide an administrative module in order to broaden the applicability of the system, and to ease administration of the system.

Alternatively Salvo shows all elements except a route optimization module optimizing the schedule based on storage levels at the customer locations (as above), and that the system has an administrative software module.

As to the route optimization module, Mowery shows this element and it would have been obvious to modify the apparatus of Salvo as taught by Mowery for the reasons discussed above.

Regarding the administrative module, the examiner takes official notice that it is notoriously old and well known in the art to provide an administrative software module. It would have been obvious to one of ordinary skill in the art to further modify the apparatus of Salvo by providing an administrative module in order to and to facilitate management of dealers associated with the system.

As to claim 21, it is noted that in addition to the elements discussed above regarding claim 1, Salvo shows all additional elements, including the central server formatting the data to a dealer format since the server provides access to the data in an html format which the dealer uses (see col.7, lines 55-60 – server provides information to dealer via web interface), and that the information is provided in real time (also lines 55-60).

As to claim 2, Salvo in view of Mowery shows a software module for reporting the results through a plurality of networks via the internet.

As to claim 3, Salvo in view of Mowery shows a module for route optimization (col. 7, lines 15-23).

As to claims 5 and 27, Salvo in view of Mowery shows a module for accounting since the system analyzes and compares price information.

As to claims 6 and 7, Salvo in view of Mowery shows a module which can access GPS data.

As to claim 8, Salvo in view of Mowery shows a monitor for providing a monitoring service (see e.g., Fig. 3).

As to claim 23 and 24, Salvo in view of Mowery shows delivery analysis software, and route optimization using GPS data.

As to claim 25, Salvo in view of Mowery shows an administrative system enrolling customers and administering the system, since customers are enrolled in the system and the system is administered.

AS to claim 26, Salvo in view of Mowery shows authorization software via password protection of the data website.

As to claim 28, Salvo in view of Mowery shows providing the customer with the data.

As to claim 4, Salvo in view of Mowery shows all elements of the claim except that the computer – user path is wireless. However, the examiner takes official notice that it is notoriously old and well known in the art use wireless communication between a user and a server (e.g., satellite internet, wireless internet). It would have been obvious to one of ordinary skill in the art to modify the apparatus of Salvo by using wireless communication in order to allow for portability of the user and to allow for communication in areas where internet access is poor.

As to claim 9, Salvo in view of Mowery shows all elements except that the measurer is self-contained. However, the examiner takes official notice that it is notoriously old and well known in the art for a measurer to be self-contained. It would have been obvious to one of ordinary skill in the art to modify the apparatus of Salvo by providing a self-contained measurer in order to enable easy, modular change-out of measurers in case of failure.

As to claim 10, Salvo in view of Mowery shows all elements except that the communicator is self-contained. However, the examiner takes official notice that it is notoriously old and well known in the art for a communicator to be self-contained. It would have been obvious to one of ordinary skill in the art to modify the apparatus of

Salvo by providing a self-contained communicator in order to enable easy, modular change-out of communicators in case of failure.

As to claim 25 (alternatively), Salvo in view of Mowery shows all elements except that the system has an administrative software module. However, the examiner takes official notice that it is notoriously old and well known in the art to provide an administrative software module. It would have been obvious to one of ordinary skill in the art to modify the apparatus of Salvo by providing an administrative software module in order to ease administration of the system.

Response to Arguments

Applicant's arguments filed 1/23/2006 have been fully considered but they are not persuasive.

Regarding Applicant's argument that the route optimization software, as claimed is not in Salvo is moot, since it is taught by Mowery in the 103 rejection.

Regarding the argument that the combination is improper, the examiner respectfully disagrees. Applicant argues that the Salvo teaches away from route optimization software, but as argued, it appears that Applicant is arguing that Salvo teaches away from long term scheduling software (scheduling delivery for one month as opposed to a different month) instead of optimizing the route taken once a purchasing decision has been made.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is (571) 272-6785. The examiner can normally be reached on M-Th 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander G. Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Steven B. McAllister

Steven B. McAllister
Primary Examiner
Art Unit 3627

STEVE B. MCALLISTER
PRIMARY EXAMINER